# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

JAMES ELLIS and WILLIAM PERRY,	) )
Plaintiffs,	) Case No. 1:15-cv-14128-WGY
v.	ORAL ARGUMENT REQUESTED
FIDELITY MANAGEMENT TRUST COMPANY,	) ) )
Defendant.	) )

### **DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Defendant Fidelity Management Trust Company ("Fidelity") hereby moves for summary judgment. For the reasons stated in the accompanying Memorandum in Support of Defendant's Motion for Summary Judgment, summary judgment should be granted because (i) there is no genuine dispute of fact as to Fidelity's rigorous process for managing the Managed Income Portfolio ("MIP"); and (ii) plaintiffs' arguments regarding what they claim were imprudent investment decisions for MIP are classic hindsight attacks, unequivocally rejected by the First Circuit as a basis for liability under ERISA.

WHEREFORE, Fidelity respectfully requests that this Court grant summary judgment.

#### **REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), Fidelity requests a hearing on this Motion. Fidelity submits that a hearing shall assist the Court in its consideration and resolution of the issues presented herein.

Dated: February 17, 2017 Respectfully submitted,

FIDELITY MANAGEMENT TRUST COMPANY

By its attorneys,

#### /s/ Gregory Jacob

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## LOCAL RULE 7.1(A)(2) CERTIFICATION AND CERTIFICATE OF SERVICE

I, Gregory Jacob, hereby certify that counsel for Defendants conferred with opposing counsel on February 16, 2017 and were unable to resolve or narrow the issues presented in this motion prior to filing.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 17, 2017.

/s/ Gregory	Iacoh
/S/ Gregory	Jucov